

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:15-CR-00024-RJC

USA

v.

KENATE FUNDERBURK

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ORDER

THIS MATTER is before the Court upon letter of the defendant concerning medical treatment in custody. (Doc. No. 249).

The defendant has pled guilty to a drug charge and is awaiting sentencing. (Doc. No. 235: Plea Agreement; Doc. No. 236: Acceptance and Entry of Guilty Plea). He has been detained since the initiation of this case. (Doc. No. 57: Order of Detention). The defendant states he has a heart condition that is not being addressed in jail. He would like to be considered for bond; however, he is not eligible for bond pending sentencing absent a clear showing of extraordinary circumstances. 18 U.S.C. §§ 3143(a), 3145(c). The Court finds that the defendant's allegations do not establish exceptional reasons why his detention is not appropriate.

Title 18, United States Code, Section 3142(i) allows a court to direct a defendant into the custody of the Attorney General for confinement in a corrections facility, and to direct that the person be afforded reasonable opportunity to consult with counsel. The statute does not provide the Court authority in a criminal case to direct the corrections facility in its medical care for a pretrial detainee.¹

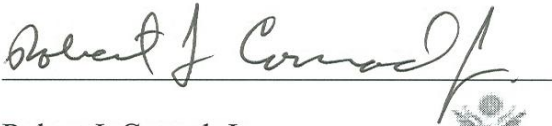
¹ The Fourth Circuit has recognized a federal pretrial detainee's right of action under 42 U.S.C. § 1983 to seek redress for deliberate indifference to his medical needs. Loe v. Armistead, 582 F.2d 1291, 1293-94 (4th Cir. 1978).

IT IS, THEREFORE, ORDERED that the defendant's motion for bond is **DENIED**.

However, the Court requests that United States Marshals Service inquire with the jail regarding the defendant's medical treatment.

The Clerk is directed to certify copies of this order to counsel for the defendant, to the United States Attorney, and the United States Marshals Service.

Signed: September 25, 2015

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

